IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

THURSDAY, THE 5TH DAY OF FEBRUARY 2026 / 16TH MAGHA, 1947

WP(PIL) NO. 25 OF 2026

PETITIONER:

AJEESH KALATHIL GOPI
AGED 44 YEARS, S/O GOPI KALATHIL KUNJACHAN LEX REDEMPTION PVT LTD, 8/51, F/F, JANGPURA- EXTESION, NEW DELHI MOB: 9315669875/9971870778
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BY ADV AJEESH KALATHIL GOPI(PARTY-IN-PERSON)

RESPONDENTS:

1. **STATE OF KERALA**
   THROUGH CHIEF SECRETARY SECRETARIAT, THIRUVANANTHAPURAM
   EMAIL: CHIEFSECY@KERALA.GOV.IN, PIN - 695001

2. **DIRECTOR GENERAL OF PRISONS & CORRECTIONAL SERVICES**
   PRISON HEADQUARTERS POOJAPPURA, THIRUVANANTHAPURAM KERALA, EMAIL: DGP.PRISONS@KERALA.GOV.IN, PIN - 695012

3. **PRINCIPAL SECRETARY TO GOVERNMENT HOME DEPARTMENT**
   GOVERNMENT SECRETARIAT THIRUVANANTHAPURAM KERALA, EMAIL: HOME@KERALA.GOV.IN, PIN - 695001

4. **PRINCIPAL SECRETARY TO GOVERNMENT FINANCE DEPARTMENT**
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SRI.V. MANU-SR.GP

THIS WRIT PETITION (PUBLIC INTEREST LITIGATION) HAVING COME UP FOR ADMISSION ON 05.02.2026, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 5th day of February, 2026

Soumen Sen, C.J.

This Public Interest Litigation is filed by an Advocate who claimed to be a practising Advocate in the Hon'ble Supreme Court. In this Public Interest Litigation, the petitioner has questioned the decision in enhancing the wages payable to the convicted prisoners engaged in prison labour. It is stated that enhancing the same to ₹530 - ₹620 per day, to be paid to them by way of wages substantially higher from what they were nearly seven years back, is arbitrary compared to the provisions in the Minimum Wages Act, 1948 as applicable in the State of Kerala. By way of illustration it is stated in the petition that by G.O.(P)No.73/2023/LBR dated 06.09.2023, issued under Sections 3 and 5 of the Minimum Wages Act, 1948, the State Government revised the statutory minimum wages payable to free workers employed in the Electronic equipments, Home Appliance and Operation of Software System Industry sector, fixing basic monthly wages at ₹18,000/- for highly skilled workers,

₹16,460/- for skilled workers, ₹15,720 for semi-skilled workers and ₹15,000/- (and in certain categories ₹14,650/-) for unskilled workers.

2. The petitioner has relied upon some reports, which claimed to be reliable reports, to question the wisdom of the Government to revise wage structure of the convicted prisoners. Although it is conceded that the prisoners retain basic human dignity, incarceration remains punitive and corrective in character and any labour assigned to prisoners is incidental to confinement for discipline and reformation and it cannot be a source of economic privilege or parity with free, law-abiding citizens. The learned counsel has referred to the decision of the Hon'ble Supreme Court in **State of Gujarat v. Hon'ble High Court of Gujarat**[1] to contend that prison labour does not constitute employment, and that any remuneration must be equitable and incentive-based, without conferring a net economic advantage over free labour. It is submitted that by fixing prisoners' remuneration in the range of ₹15,000/- to ₹18,600/- per month, while fully subsidizing all living expenses, the State of Kerala creates a net economic

1 (1998) 7 SCC 392

benefit over free citizens, thereby directly contravening the binding ratio of the aforesaid judgment.

3. The learned Senior Government Pleader for the State has produced before us a Government Order bearing number 5/2026/HOME dated 09.01.2026, issued by the Additional Chief Secretary to the Government of Kerala, Home Department, wherefrom it appears that pursuant to the observations and directions passed by the Hon'ble Supreme Court in **Sukanya Shantha v. Union of India and others**[2], the said circular was issued on 09.01.2026. The submission of the learned Senior Government Pleader for the State appears to be that the said circular was necessitated by reason of the observations and directions passed by the Hon'ble Supreme Court in **Sukanya Shantha** (supra).

4. In considering the merits of the issues raised by the petitioner which is substantially based on the ratio in **State of Gujarat** (supra), we may refer to the following paragraphs from the **Sukanya Shantha** (supra) for better understanding of the circular issued by the Government of Kerala.

2 2024 INSC 753

"81. In State of Gujarat v. Hon'ble High Court of Gujarat, a three-judge Bench dealt with the question whether prisoners, who are required to do labour as part of their punishment should be paid minimum wages for such work. This Court held that jail authorities are "enjoined by law to impose hard labour" on convicted prisoners who were sentenced to rigorous imprisonment, irrespective of "whether he consents to do it or not". However, undertrials, detainees with simple imprisonment, or even detenus who are kept in jails as preventive measures cannot be "asked to do manual work during their prison term." Justice KT Thomas, speaking for the Court, held that "a directive from the court under the authority of law to subject a convicted person (who was sentenced to rigorous imprisonment) to compulsory manual labour gets legal protection under the exemption provided in Clause (2) of Article 23 of the Constitution, as it "serves a public purpose" of reforming the convict and rehabilitating them in future with savings earned from such labour. The Court held that a prisoner "should be paid equitable wages for the work done by them". It directed the State to fix the quantum of equitable wages payable to prisoners, which would be calculated after deducting the expenses incurred for food and clothes of the prisoners from the minimum wage rates.

82. However, in his concurring opinion, Justice D.P. Wadhwa differed with Justice Thomas' invocation of Article 23. According to him, "there will be no violation of Article 23 if prisoners doing hard labour when sentenced to rigorous imprisonment are not paid wages". He, however, observed that the State is free to enact legislation for granting wages to prisoners subject to hard labour under courts' orders, for their beneficial purpose or otherwise. Justice M.M. Punchhi, in his concurrence with Justice Thomas, made no comment on the application of Article 23. The inference of this judgment, however, is not that imposing mandatory labour on convicts is entirely immune from the operation of Article 23. Reading Article 23 with Article 21 and the decision in Sunil Batra (II), a convict cannot be subjected to "allotment of degrading labour".

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85. What emerges from the above discussion is that the broad scope of Article 23 can be invoked to challenge practices

> where no wages are paid, non-payment of minimum wages takes place, social security measures for workers are not adopted, rehabilitation for bonded labour does not happen, and in similar unfair practices. The State shall be held accountable even in cases where the violation of fundamental rights such as Article 23 is done by private entities or individuals. Article 23 can also be applied to situations inside prisons, if the prisoners are subjected to degrading labour or other similar oppressive practices."

5. The aforesaid judgment has clearly referred to **State of Gujarat** (supra), in which three Hon'ble Judges have expressed their opinion on the interpretation of Article 23 of the Constitution of India and Justice K.T. Thomas, speaking for the Court, has clearly directed the State to fix the quantum of equitable wages payable to prisoners, which would be calculated after deducting the expenses incurred for food and clothing of the prisoners on a minimum wage rate.

6. Justice D.P. Wadhwa has also observed that the State is free to enact legislation for granting wages to prisoners subject to hard labour under courts' orders, for their beneficial purpose or otherwise. In this regard, it will be appropriate to refer to the observations of Justice V.R. Krishna Iyer in **Sunil Batra (I) v. Delhi Administration**[3], which was also noticed and reported in

3 (1978) 4 SCC 494

paragraph 59 of the judgment which reads as follows:

> "In every country, this transformation from cruelty to compassion within jails has found resistance from the echelons and the Great Divide between pre-and-post Constitution penology has yet to get into the metabolism of the Prison Services. And so, on the national agenda of prison reform is on-going education for prison staff, humanisation of the profession and recognition of the human rights of the human beings in their keep."

7. Once the advanced jurisprudence relating to reformation, rehabilitation and reintegration is taken into account, it becomes imperative that, upon release from prison, a prisoner has adequate funds and resources available to enable him to begin a new life after the period of incarceration. Moreover, it is not in dispute that there has been inflation, and the amount that a prisoner was receiving seven years earlier would not confer the same benefit after the passage of time. The order issued by the Government in this regard is not under challenge. A copy of the relevant order dated 09.01.2026 is handed over to us for perusal by the learned Government Pleader. The Government has therein given a justification for revising the daily wages of prisoners following the decision in **Sukanya Shantha** (supra). In exercise of judicial review, unless this Court is of the view that the decision

is wholly arbitrary or capricious, it would not be appropriate to enter into the reasonableness of the justification that led to the issuance of the impugned memorandum by the Government.

8. On such consideration, we do not find any merit in the challenge. The Public Interest Litigation stands dismissed.

Sd/-
Soumen Sen
Chief Justice

Sd/-
Syam Kumar V.M.
Judge

vpv

APPENDIX OF WP(PIL) NO. 25 OF 2026

PETITIONER EXHIBITS

Exhibit P1	**TRUE COPY OF G.O.(P) NO.73/2023/LBR DATED 06.09.2023**
Exhibit P2	**TRUE COPY OF THE ONLINE NEWS REPORT PUBLISHED IN 'KAUMUDI ONLINE' DATED 12.01.2026, REPORTING THE ENHANCEMENT OF PRISONERS' WAGES IN KERALA JAILS UP TO ₹620 PER DAY AND THE MULTI-FOLD INCREASE EFFECTED BY THE STATE GOVERNMENT**
Exhibit P3	**TRUE COPY OF THE ONLINE NEWS REPORT PUBLISHED IN 'MATHRUBHUMI.COM' DATED 13.01.2026 UNDER THE HEADLINE, REPORTING THE GOVERNMENT DECISION TO REVISE PRISON LABOUR WAGES ON THE RECOMMENDATION OF THE PRISON CHIEF**
Exhibit P4	**TRUE COPY OF THE ONLINE NEWS REPORT PUBLISHED IN 'ONMANORAMA.COM' DATED 13.01.2026 DETAILING THE REVISED DAILY WAGES OF ₹620, ₹560 AND ₹530 FOR SKILLED, SEMI-SKILLED AND UNSKILLED PRISON LABOURERS**
Exhibit P5	**TRUE COPY OF THE NEWS REPORT PUBLISHED IN 'THE WEEK' DATED 15.01.2026 REPORTING THE GOVERNMENT ORDER DATED 09.01.2026 ISSUED BY THE HOME DEPARTMENT OF THE STATE OF KERALA REVISING PRISONERS' WAGES**